

**ASSEMBLY BILL**

**No. 2086**

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**Introduced by Assembly Member Ammiano**

February 23, 2012

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An act to amend Section 11169 of the Penal Code, relating to child abuse and neglect.

LEGISLATIVE COUNSEL'S DIGEST

AB 2086, as introduced, Ammiano. Child abuse and neglect: Child Abuse Central Index.

Existing law, subject to exceptions, requires a police department, a sheriff's department, a county probation department under certain circumstances, and a county welfare department to forward to the Department of Justice a report in writing of every substantiated case of known or suspected child abuse or severe neglect, for purposes of inclusion by the department in the Child Abuse Central Index (CACI). Existing law further requires, if a report has previously been filed which subsequently proves to be not substantiated, the department to be notified of that fact and prohibits the department from retaining the report. Existing law provides for a hearing process by which a person included on the CACI may have himself or herself removed.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11169 of the Penal Code is amended to read:

11169. (a) An agency specified in Section 11165.9 shall forward to the Department of Justice a report, in writing, of every case it investigates of known or suspected child abuse or severe neglect that is determined to be substantiated, other than cases coming within subdivision (b) of Section 11165.2. An agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is substantiated, as defined in Section 11165.12. If a report has ~~previously been filed~~*which previously that* subsequently proves to be not substantiated, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The reports required by this section shall be in a form approved by the Department of Justice and may be sent by fax or electronic transmission. An agency specified in Section 11165.9 receiving a written report from another agency specified in Section 11165.9 shall not send that report to the Department of Justice.

(b) On and after January 1, 2012, a police department or sheriff's department specified in Section 11165.9 shall no longer forward to the Department of Justice a report in writing of ~~any~~ a case it investigates of known or suspected child abuse or severe neglect.

(c) At the time an agency specified in Section 11165.9 forwards a report, in writing, to the Department of Justice pursuant to subdivision (a), the agency shall also notify, in writing, the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index (CACI). The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.

(d) Subject to subdivision (e), ~~any~~ a person who is listed on the CACI has the right to a hearing before the agency that requested his or her inclusion in the CACI to challenge his or her listing on the CACI. The hearing shall satisfy due process requirements. It is the intent of the Legislature that the hearing provided for by this subdivision shall not be construed to be inconsistent with hearing

1 proceedings available to persons who have been listed on the CACI  
2 prior to the enactment of the act that added this subdivision.

3 (e) A hearing requested pursuant to subdivision (d) shall be  
4 denied when a court of competent jurisdiction has determined that  
5 suspected child abuse or neglect has occurred, or when the  
6 allegation of child abuse or neglect resulting in the referral to the  
7 CACI is pending before the court. A person who is listed on the  
8 CACI and has been denied a hearing pursuant to this subdivision  
9 has a right to a hearing pursuant to subdivision (d) only if the  
10 court's jurisdiction has terminated, the court has not made a finding  
11 concerning whether the suspected child abuse or neglect was  
12 substantiated, and a hearing has not previously been provided to  
13 the listed person pursuant to subdivision (d).

14 (f) ~~Any~~ A person listed in the CACI who has reached 100 years  
15 of age shall have his or her listing removed from the CACI.

16 (g) If, after a hearing pursuant to subdivision (d) or a court  
17 proceeding described in subdivision (e), it is determined the  
18 person's CACI listing was based on a report that was not  
19 substantiated, the agency shall notify the Department of Justice of  
20 that result and the department shall remove that person's name  
21 from the CACI.

22 (h) Agencies, including police departments and sheriff's  
23 departments, shall retain child abuse or neglect investigative reports  
24 that result or resulted in a report filed with the Department of  
25 Justice pursuant to subdivision (a) for the same period of time that  
26 the information is required to be maintained on the CACI pursuant  
27 to this section and subdivision (a) of Section 11170. Nothing in  
28 this section precludes an agency from retaining the reports for a  
29 longer period of time if required by law.

30 (i) The immunity provisions of Section 11172 shall not apply  
31 to the submission of a report by an agency pursuant to this section.  
32 However, nothing in this section shall be construed to alter or  
33 diminish any other immunity provisions of state or federal law.